



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10

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OFFICE OF
REGIONAL COUNSEL

December 8, 2014

VIA ELECTRONIC MAIL AND U.S. POSTAL SERVICE MAIL

Williams F. Joyce and Ian Sutton
Joyce Ziker Parkinson, PLLC
Westlake Center Tower
1601 Fifth Avenue, Suite 2040
Seattle, Washington 98101
wjoyce@jzplaw.com

Re: Jorgensen Forge Early Action Area of the Lower Duwamish Waterway Superfund Site

Dear Messrs. Joyce and Sutton:

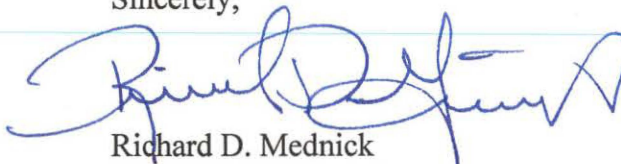
The United States Environmental Protection Agency (EPA) proposes an indefinite suspension of the obligations for Earle M. Jorgensen (EMJ) that are set forth in the letter dated November 25, 2014 (Letter), from Rebecca Chu of EPA to Amy Essig Desai of Farallon Consulting, LLC. In exchange for this allowance, EPA requests that EMJ provide a sampling and analysis plan (SAP) to EPA by no later than February 2, 2015, for the Jorgensen Forge Early Action Area (EAA) of the Lower Duwamish Waterway Superfund Site. If these terms are acceptable to EMJ, the dispute resolution process under Section XVI of the Administrative Settlement Agreement and Order on Consent for Removal Action Implementation in CERCLA Docket No. 10-2013-0032 (Settlement Agreement) would be moot as to the Letter.

As part of this arrangement, it is understood that the SAP will be a "deliverable" within the meaning of paragraph 18 of the Settlement Agreement. It is further understood that EPA may notify EMJ at any time that any or all of the obligations in the Letter are once again requirements under the Settlement Agreement, and such notice will serve as a new action by EPA for the purpose of Section XVI of the Settlement Agreement.

The SAP must provide for further evaluation of the sediments dredged as part of the removal action performed during the summer of 2014 within the EAA in order to more fully characterize the concentrations and locations of the remaining polychlorinated biphenyls. This evaluation will necessarily include testing of the sediments at two intervals at the interface of the Z-layer with the clean backfill material across all of the DMUs and the cofferdam (PDS-7): 0-1 foot and 1-2 foot. EPA understands that several of the original Z-layer sample locations are now currently underneath the armoring placed along the re-configured bank. For those sampling site locations currently under the bank material, EMJ must identify alternate means to obtain the required sampling data (e.g. angled geo-probe data).

Please inform me as to whether EMJ agrees to the terms of this letter. If so, this letter, together with the acceptance, will serve as a modification to the Settlement Agreement as per paragraph 76 therein. Thank you for your continued time and effort in this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Richard D. Mednick", with a stylized flourish at the end.

Richard D. Mednick
Associate Regional Counsel

cc: Rebecca Chu, EPA